

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GLADYS GREEN,

Plaintiff,

22 CIVIL 3554 (VEC)

-against-

JUDGMENT

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated July 3, 2023, the R&R is adopted in full, Plaintiff's motion for judgment on the pleadings is GRANTED, the Commissioner's cross-motion for judgment on the pleadings is DENIED, and this case is REMANDED to the Commissioner for additional proceedings. IT IS FURTHER ORDERED that, for the reasons discussed in the R&R, on remand, the Administrative Law Judge (the "ALJ") is respectfully directed: (1) to address whether the evidence, including Plaintiff's intellectual deficits (considered singly or in combination with other evidence), meets the criteria for an intellectual disorder under 20 C.F.R. Part 404, Subpart P, App. 1 § 12.05; (2) to determine whether there is any conflict between the vocational experts opinion that Plaintiff could perform a significant number of jobs in the national economy and the Dictionary of Occupational Titles, see 20 C.F.R. § 404.1566(d); and (3) to conclude the administrative proceedings within 120 days of remand; if the decision denies Plaintiff benefits, the Commissioner must render a final decision within 60 days of Plaintiff's appeal. IT IS FURTHER ORDERED that because the R&R gave the parties adequate warning, see R&R at 26, the failure to file any objections to the R&R precludes appellate review of this

decision. See *Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision." (citing *Small v. Secy of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam))). Judgment is entered and matter is remanded to the Commissioner; accordingly, the case is closed.

Dated: New York, New York
July 5, 2023

RUBY J. KRAJICK

Clerk of Court

BY: *K. mango*

Deputy Clerk